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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/980,083	03/01/2002	Ian Richard Joseph Bates	041618-0060	9636
22204	7590	02/27/2006	EXAMINER	
NIXON PEABODY, LLP			KING, BRADLEY T	
401 9TH STREET, NW				
SUITE 900			ART UNIT	PAPER NUMBER
WASHINGTON, DC 20004-2128				3683

DATE MAILED: 02/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/980,083	BATES, IAN RICHARD JOSEPH	
	Examiner	Art Unit	
	Bradley T. King	3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 12 December 2005.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,2 and 4-13 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) 1,2,4-7 and 9-13 is/are allowed.
 6) Claim(s) 8 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/18/2005 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 8 is rejected under 35 U.S.C. 102(e) as being anticipated by Eslinger (US#6120107).

Eslinger discloses all the limitations of the instant claims including: a control system having one or more inputs 26, 38 indicative of a vehicle operating state, and an output 44 for determining whether a compressor 14 is on-load or of-load, the system further including target means to calculate a target pressure (P, P_{ci}, P_{co}) for a reservoir 20 downstream of said compressor, said output being responsive to said target means, wherein the target pressure is higher (up to P_{co}) during a zero throttle opening state.

Note the system changes the target pressure to P_{co} during the zero throttle state.

Claim 8 is rejected under 35 U.S.C. 102(b) as being anticipated by Tonegawa (US#4459085).

Tonegawa discloses all the limitations of the instant claims including: a control system having one or more inputs 4 indicative of a vehicle operating state, and an output for determining whether a compressor 10 is on-load or of-load, the system further including target means to calculate a target pressure (P₁, P₂) for a reservoir 12 downstream of said compressor, said output being responsive to said target means, wherein the target pressure is higher (P₂) during throttle-off modes than throttle-on modes (P₁). Note the system changes the target pressure to P₂ during the zero throttle state.

Allowable Subject Matter

62/116
Claims 1-2, 4-7 and 9-13 are allowed.

Response to Arguments

Applicant's arguments filed 11/18/2005 have been fully considered but they are not persuasive.

2, 4-7
With regards to claims 1-~~7~~ and 9-13, Applicant's arguments are persuasive.

Regarding claim 8, the language of the claim does not make the distinction that the target pressure is changeable to different values within the zero throttle opening state.

Note the relied upon references change the target pressure to a different value and maintain that value during the zero throttle state. It is maintained that this is readable upon the recited "change the target pressure during the zero throttle opening state".

Also note that claim 8 does not require "real time" calculation.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley T. King whose telephone number is (571) 272-7117. The examiner can normally be reached on 11:00-7:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James McClellan can be reached on (571) 272-6786. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BTK



Bradley King 2/21/06

BRADLEY KING
PATENT EXAMINER